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Proposed bill targets Wayne County land speculators

BY CHRISTINE MACDONALD / THE DETROIT NEWS

Detroit — A Metro Detroit lawmaker says he's targeting land speculators by introducing legislation requiring buyers of county-foreclosed properties stay current on their taxes for three years.

State Rep. Phil Cavanagh, D-Redford Township, introduced the bill this week. It would require auctioned properties to revert back to the county if the buyers are late paying their taxes in the first three years.

"Counties and cities across our state, and especially Wayne County and Detroit, are currently struggling with speculators who play the system," said Cavanagh in a press release. "My bill will begin to address this problem by requiring that tax-foreclosed properties revert back to the government unit that sold them if taxes are not paid on time during the first three years of ownership."

In 2011, The News profiled one of the city's most prolific speculators, Michael G. Kelly, who at the time had amassed nearly 1,200 parcels in Detroit, many through the county's annual auction. A University of Michigan professor tracked some of the tax-foreclosed properties bought by Kelly's companies in 2002 and 2003. By 2007, one-third had fallen back into foreclosure for nonpayment of taxes, according to the report. Kelly disputed the findings.

After a series of stories in The News about the tax auction, Wayne County Treasurer Raymond Wojtowicz instituted his own reforms this fall. His office now requires auction buyers to stay current on taxes for two years or risk losing them, although the city must track whether the taxes are paid or not. Rules also now require buyers to secure or demolish dangerous properties within six months.

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THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.78 Delinquent taxes; return, forfeiture, and foreclosure of property; construction of act; election to have state foreclose property forfeited to county; definitions.

Sec. 78.

(1) The legislature finds that there exists in this state a continuing need to strengthen and revitalize the economy of this state and its municipalities by encouraging the efficient and expeditious return to productive use of property returned for delinquent taxes. Therefore, the powers granted in this act relating to the return of property for delinquent taxes constitute the performance by this state or a political subdivision of this state of essential public purposes and functions.

(2) It is the intent of the legislature that the provisions of this act relating to the return, forfeiture, and foreclosure of property for delinquent taxes satisfy the minimum requirements of due process required under the constitution of this state and the constitution of the United States but that those provisions do not create new rights beyond those required under the state constitution of 1963 or the constitution of the United States. The failure of this state or a political subdivision of this state to follow a requirement of this act relating to the return, forfeiture, or foreclosure of property for delinquent taxes shall not be construed to create a claim or cause of action against this state or a political subdivision of this state unless the minimum requirements of due process accorded under the state constitution of 1963 or the constitution of the United States are violated.

(3) Not later than December 1, 1999, the county board of commissioners of a county, by a resolution adopted at a meeting held pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and with the written concurrence of the county treasurer and the county executive, if any, may elect to have this state foreclose property under this act forfeited to the county treasurer under section 78g. At any time during December 2004, the county board of commissioners of a county, by a resolution adopted at a meeting held pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and with the written concurrence of the county treasurer and county executive, if any, may do either of the following:

(a) Elect to have this state foreclose property under this act forfeited to the county treasurer under section 78g.

(b) Rescind its prior resolution by which it elected to have this state foreclose property under this act forfeited to the county treasurer under section 78g.

(4) Beginning January 1, 2009 through March 1, 2009, the county board of commissioners of a county in which is located an eligible city, as that term is defined in section 89d, may, by a resolution adopted at a meeting held pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and with the written concurrence of the county treasurer and county executive, if any, rescind its prior resolution by which it elected to have this state foreclose property under this act forfeited to the county treasurer under section 78g.

(5) The foreclosure of forfeited property by a county is voluntary and is not an activity or service required of units of local government for purposes of section 29 of article IX of the state constitution of 1963.

(6) A county and a local governmental unit within that county may enter into an agreement for the collection of property taxes or the enforcement and consolidation of tax liens within that local governmental unit. A local governmental unit shall not establish a delinquent tax revolving fund under section 87b.

(7) As used in this section and sections 78a through 155 for purposes of the collection of taxes returned as delinquent:

(a) "Foreclosing governmental unit" means 1 of the following:

(i) The treasurer of a county.

(ii) This state if the county has elected under subsection (3) to have this state foreclose property under this act forfeited to the county treasurer under section 78g.

(b) "Forfeited" or "forfeiture" means a foreclosing governmental unit may seek a judgment of foreclosure under section 78k if the property is not redeemed as provided under this act, but does not acquire a right to possession or any other interest in the property.

History: Add. 1999, Act 123, Eff. Oct. 1, 1999 ;-- Am. 2008, Act 512, Imd. Eff. Jan. 13, 2009

Compiler's Notes: Former section 78 was not compiled.

Popular Name: Act 206

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Oregon Real Estate Round Table

September 7, 2011

Owners Escape Tax Debt By Rebuying Foreclosed Homes, by Christine MacDonald/ The Detroit News

Filed under: Bend Real Estate, Central Oregon Real Estate, Deschutes County Real Estate, Economy, FHA Loan, Finance, Foreclosure, Hillsboro Oregon Real Estate, Lake Oswego Real Estate, Mortgage Banker, Mortgage News, Oregon Economy, Oregon Real Estate, Oregon Real Estate Law, Portland, Portland Real Estate, Real Estate, Real Estate News, Short Sale — Fred Stewart @ 4:25 pm

Tags: Auction, Bank of America, banks, Beaverton, Clackamas County, Credit, Detroit, Economy, Fannie Mae, Federal Government, FHA Loan, Finance, Foreclosure, Foreclosure Bailout, Freddie Mac, Lake Oswego, Landlord, Mortgage, Mortgage Companies, Mortgage loan, Mortgage Payments, Oregon Real Estate, Portland Real Estate, Property, Property tax, Real Estate, Real Estate Financing, Tax, Ted Phillips, Tigard, Treasurer, United States, USBANK, Washington County, Wells Fargo Bank, West Linn

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Detroit — Landlord Jeffrey Cusimano didn't pay property taxes on seven of his east-side rentals for three years, owing the city of Detroit more than \$131,800.

Typically, that would mean losing the properties. But Cusimano not only got to keep them — his debt, including interest, fees and unpaid water bills, was virtually wiped free.

Cusimano and a growing number of Detroit property owners are using a little-known loophole to erase tax debt by letting their properties go into foreclosure and then buying them back a month later at the Wayne County Treasurer's auction for pennies on the dollar.

It's legal. But that doesn't mean it's fair, said homeowner Marilyn Alexander, who lives on Fairmount next door to one of Cusimano's rentals. The landlord owed \$26,200 in taxes and other fees on the bungalow, but bought it back in October for \$1,051.

"He shouldn't be able to get away with that," said Alexander, a 57-year-old laundry worker who said she scrapes together every year her \$1,500 in property taxes at the house where she's lived for 20 years. "That's not a fair break to anybody else out here."

Critics described it as a growing problem as the foreclosure crisis deepens. A record number of properties — nearly 14,300 — are expected to be auctioned this fall, and officials predict more owners will try to buy back their properties.

The News identified about 200 of nearly 3,700 Detroit properties sold at auction last year that appeared to be bought back by owners, some under the names of relatives or different companies and many for \$500. The total in taxes and other debts wiped away was about \$1.8 million.

"I don't think it's OK; it's just how things are," said Cusimano, who argues Detroit taxes are so unfairly high he was forced to buy back the foreclosed properties.

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At the September auction, the properties' prices are the debt that's owed. But in October, the county treasurer sells off whatever is left at a \$500 opening bid. That's where most of the sales happen, including owners buying back their properties.

There's an effort in Lansing to ban the practice, but others defend it.

Many of those defenders are struggling homeowners, said Ted Phillips, who runs a legal advocacy nonprofit agency. He helped about 140 families buy their houses back last year and expects to "easily" double that in October.

"It's absolutely better to have folks in their homes," said Phillips, executive director of the United Community Housing Coalition.

"The system is just so broken. This is a little bit of a way to correct the broken system. Not a great way, but a way."

But he agreed that others who can afford to pay the taxes are exploiting the loophole and should be stopped.

Besides Cusimano, well-known land speculator Michael Kelly bought back three properties last fall through a company he is affiliated with to erase a \$37,595 debt. The News profiled the Grosse Pointe Woods investor who, through the tax sale, gained control of more Detroit properties than any other private landowner as of earlier this year.

Cusimano, who owns about 80 rentals, makes no apologies and blamed Detroit for failing to reduce his assessments on homes whose values have crashed. He said he's got small bungalows with \$4,000-a-year tax bills, which he argues sometimes is more than the house is worth.

"The taxes are ridiculous," Cusimano said. "I don't even pay that for my house in Clinton Township."

Huge debts wiped clean

The savings can be striking.

One owner bought back her storefront on West Seven Mile last year for \$15,000, eliminating nearly \$37,000 in debt. Another owed \$23,100 on two buildings and a parking lot on Conant, but bought each back for the minimum \$500.

And Cusimano got his seven rentals back for \$4,051, erasing nearly \$128,000 in property taxes and other government liens.

Cusimano, a landlord in the city for two decades, said the method wasn't his first choice. He said he tried to appeal his high taxes without success. He admits he's taking advantage of the loophole, but said he must survive the tough economic times.

"You just have to go with how the system goes," said Cusimano. "I have been learning that in the last few years."

Owners often buy back their properties using the same name under which they lost them. And there's generally a low risk of getting outbid because of the glut of vacant land. Last fall, at least 6,847 parcels in Detroit went into the city's inventory after they didn't sell at auction.

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Landlord Allen Shifman justified his buys, saying “every house is going to the highest bidder.” He owed \$35,300 on three properties owned by one business in which he has an interest, but bought them back under another affiliated business for \$3,500.

Shifman described them as “garbage properties” even though the city puts the three houses’ market value between \$20,000 and \$60,000. He said many of the city’s landlords are struggling.

“It didn’t work out that well for me,” Shifman said of repurchasing the properties. “I didn’t get anything for my money.

“The taxes are more than it’s worth. The houses don’t have any value at all. If the properties were worth the value of the houses, people would pay the taxes.”

Detroit’s tax rates — 65 mills for homeowners and 83 mills on other property owners — are the highest in the state, according to a recent Citizens Research Council of Michigan report. The average statewide rate is 31 mills for homeowners and 48 mills for other property owners.

Dan Lijana, a spokesman for Mayor Dave Bing, said the city has been reducing residential assessments “in the double-digit range” over the last four years, but that “distressed sales,” such as the sales from the county auction, can’t be a factor.

Cusimano’s neighbors on Fairmount, a street in northeast Detroit with mostly maintained aluminum-sided bungalows, argued they are paying taxes and were angered when told of the loophole.

“OK, he gets to buy his back and my mother has to struggle?” said Tekena Crutcher, who lives with her mom. “The city is the way it is because of people like him not paying his taxes.”

Alexander said she’s suffering from throat cancer, but pays her taxes.

“It’s disappointing to know that the system is set up like that and things like this are allowed to happen,” she said.

Lijana said City Hall is looking at the city’s tax structure and the auction loophole.

“We are working to make the City of Detroit run more like a business,” Lijana said in an email. “This is an example of a challenge that we are looking to address both from a fiscal perspective and as a land use policy.”

Legislation aimed to stop it

Wayne County Chief Deputy Treasurer David Szymanski, whose office runs the auction, said it’s frustrating to see people ditch tax obligations, but the law allows for it.

“There is no restriction in the law about who can or cannot bid at auction,” Szymanski said. “It’s such a tough issue.”

“It’s clearly in the best interest to keep people in their homes. But it’s a very bitter pill for the people next door.”

Mah-Lon Grant, 62, and Gloria Grant, 57, said they would be homeless and their house likely gutted if Phillips’ nonprofit group hadn’t helped them buy it back.

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Their debt only was about \$5,500, but it was overwhelming.

The couple got behind on their taxes after losing their landscaping business when Mah-Lon Grant went to prison in 2005 for five years on felony firearm and assault charges, according to state records. He said the situation got out of control while he was defending himself as he collected a debt from an associate.

"If we had to do it ourselves, I don't think we would have been able to do it," Mah-Lon Grant said. "There's no way we could catch up."

"We are barely surviving."

The couple was able to buy the house, where they've lived for 34 years, back at auction for \$500. They live there with their 22-year-old son and 15-month-old great-granddaughter.

He said his family is different from other property owners using the loophole.

"They are doing it for profit," Grant said. "We are doing it for survival."

State Sen. Tupac Hunter, D-Detroit, has introduced legislation to ban buyers who owe back taxes.

He said he's looking to retool it to make sure nonprofits can buy properties on behalf of families, such as the Grants.

But Hunter said he wants to stop "land speculation and the scavenging currently going on in Wayne County's tax foreclosure auctions."

"My intent is to make it more difficult for land speculators to game the system," Hunter wrote in an email.

Szymanski said his office opposes Hunter's bill because it's too restrictive, but is brainstorming ways to prevent owners who can pay their taxes from buying back properties.

"We want to help people in need, not make people rich," Szymanski said.

But Shifman and others who oppose limits on who can buy at auction said it will only hurt taxpayers further.

All the revenue raised at the auction goes back to the city, schools and library.

"I don't know what the county is going to do without all those proceeds," Shifman said. "You will eliminate a lot of buyers."

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From The Detroit News: <http://detnews.com/article/20110907/METRO01/109070383/Owners-escape-tax-debt-by-rebuying-foreclosed-homes#ixzz1XJMP2BOJ>

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